

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

RICHARD DALE WEST,

Plaintiff,

v.

**Civil Action No. 1:20cv232
(Judge Kleeh)**

**PRIMECARE MEDICAL and
WEXFORD HEALTH SOURCES, INC.,**

Defendants.

ORDER DISMISSING CASE FOLLOWING NOTICE OF INTENT TO DISMISS

On December 13, 2019 in the United States District Court for the Southern District of West Virginia, the *pro se* plaintiff, Richard Dale West (“West”), an inmate then-incarcerated at the Southwestern Regional Jail (“SWRJ”) in Holden, West Virginia, filed a state civil rights complaint pursuant to 42 U.S.C. § 1983, an application to proceed without prepayment of fees, and an authorization to release institutional account information. ECF Nos. 2, 1, 3.

On December 16, 2019, three days after filing his initial complaint in the Southern District of West Virginia, West filed a notice of change of address indicating that he had been transferred to the Salem Correctional Center (“SCC”) in Industrial, West Virginia (a facility located within the Northern District of West Virginia). ECF No. 5.

On January 27, 2020, the Southern District of West Virginia’s Clerk’s Office docketed a letter-form motion filed by West seeking to modify the name of defendant “Wexford Medical” to “Wexford Health,” and advising that he had tested positive for Hepatitis C and had requested treatment for the same. ECF No. 8. At the time he filed this letter motion, West was incarcerated at SCC, but was subsequently transferred to Huttonsville Correctional Center (“HCC”) in Huttonsville, West Virginia (a facility also located within the Northern District of West Virginia).

By Order entered June 29, 2020, in the Southern District of West Virginia, West was granted permission to proceed as a pauper; payment of the initial partial filing fee was waived but he was assessed the full fee.¹ ECF No. 11. On July 1, 2020, West filed a letter motion to consider his case. ECF No. 12. On July 9, 2020, West filed additional documentation. ECF No. 13. On July 17, 2020, West filed a motion to subpoena phone calls and a motion to serve summonses on the defendants. ECF Nos. 15, 16. On August 10, 2020, West filed a motion to seek a ruling on his motions. ECF No. 17.

West's complaint raised issues surrounding his medical treatment, or the lack thereof, for medical conditions including hemorrhoids, ulcers, and blood loss, which arose while he was incarcerated at the Northern Regional Jail ("NRJ") in Moundsville, West Virginia (a facility within the Northern District of West Virginia). The complaint further alleged that sometime in 2018, West was taken to the Ohio Valley Medical Center ("OVMC") where he was hospitalized for five days. The complaint suggests that West was suffering from additional blood loss, anemia, jaundice, and liver and kidney issues, and that he was returned to NRJ's custody after being released from OVMC.

Sometime in 2019, West was transferred from the NRJ to the SWRJ (a facility in the Southern District of West Virginia) for approximately six months, but he claims he received no medical treatment while he was there.

By Order entered September 20, 2020 in the Southern District of West Virginia, a videoconference status conference was set. ECF No. 20. The status conference was held on September 23, 2020. ECF No. 21. By Order entered September 24, 2020 in the Southern District of West Virginia, the claims in West's complaint raising issues in this district were transferred to

¹ At the time the portion of the case that was transferred to this district occurred, despite having been granted permission to proceed as a pauper, West had not yet made any payments toward the fee.

this district and West's letter motion seeking to modify the name of defendant "Wexford Medical" to "Wexford Health" was granted to the extent that the name of defendant "Wexford Medical" was amended to "Wexford Health Sources, Inc." ECF No. 22. The remaining pending motions [ECF Nos. 12, 15, 16] were denied without prejudice. Id.

Upon receiving the case, because the complaint was not on a Court-approved form for this district, for administrative purposes, on September 24, 2020, this Court's Clerk docketed it as a state civil rights complaint pursuant to 42 U.S.C. § 1983 and issued a Notice of Deficient Pleading and Intent to Dismiss ("Notice") to West, advising that the instant action would be dismissed within thirty days, or by October 28, 2020, because he had not complied with the Local Rules of Prisoner Litigation Procedure ("LR PL P"), which require that all initiating documents be on Court-approved forms. ECF No. 25. The Notice further advised West that if he wished to pursue his claims, he would be required to re-file his complaint on the Court-approved form attached to the Notice. Id. The Notice was sent to West via certified mail, return receipt requested, at his last known address as reflected on the docket. Id. A review of the docket indicates that West received his copy of the Notice on September 30, 2020. ECF No. 27.

On October 21, 2020, West filed his complaint on the Court-approved form and it has been assigned Civil Action No. 5:20cv230. Pursuant to the terms of the Notice, this action is hereby **DISMISSED** and all matter relating to West's state civil rights complaint shall proceed in Civil Action No. 5:20cv230.

The Clerk is further **DIRECTED** to mail a copy of this Order to the *pro se* Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: October 26, 2020



THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE